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1 **Amend § 1037.5 Review Teams to Be Established**

2 Interdisciplinary review teams shall be established by the Director to
3 review plans and assist the Director in the evaluation of proposed timber
operations and their impacts on the environment.

4 (a) Review Team Composition. Each review team, when possible, shall
5 consist of a representative from each of the following agencies: the
6 appropriate California Regional Water Quality Control Board, Department of
7 Fish and Game, Department of Conservation, Division of Mines and Geology, a
8 representative of county government when the county government so requests,
9 Regional California Coastal Commission (for plans in the coastal zone),
10 California Tahoe Regional Planning Agency (for plans in the Tahoe Basin) and
11 the Department of Forestry and Fire Protection. The ~~ed~~ Director shall request
12 a representative from the Department of Parks and Recreation in the case of
13 plans that ~~which~~ may affect values in publicly owned parks. The Director may
14 request other federal, state or county agencies, or the Native American
15 Heritage Commission (NAHC) or local tribal groups identified by the NAHC,
16 when appropriate, to assist as advisors in the review process. The
17 Department of Forestry and Fire Protection's representative shall be the
18 review team chairperson and shall be a Registered Professional Forester.

19
20 (b) Review Team Function. The function of the review team shall be to
21 assist the Director in determining if plans are in conformance with Board
22 rules and to evaluate the potential environmental impacts of timber
23 operations. Review criteria employed by a team shall be consistent with this
24 function. The Board's regulations provide direction for those situations
25 noted during the review which are not addressed by specific rules (See 14 CCR
898.1(f), 901-903.2, 1655 & PRC 4555). In evaluating a plan, the review team
shall review any discussion of feasible alternatives or additional mitigation
to the proposed timber operation as prescribed in 14 CCR 898. Plan reviewers
must consider the economic as well as the environmental benefits of feasible
alternatives. The review team shall serve in an advisory capacity to the
Director in making recommendations on plans.

1 In the event that any member of the review team concludes that the plan
2 as filed would have a significant adverse effect on the environment, that
3 member shall explain and justify this conclusion in writing as specifically
4 as possible. The member shall provide in writing suggested site-specific
5 mitigation measures, if any, that will substantially lessen the impacts.

6 (c) Chairperson Tasks. The Department is the lead agency in the review
7 of plans. The review team chairperson shall direct the review team meetings,
8 coordinate the interdisciplinary review of plans and develop recommendations
9 on plans for the Director's consideration.

10 (d) Review Team Meetings. The Director or his designee is responsible
11 for establishing and scheduling the meeting of a review team to perform the
12 necessary review of plans for the Department.

13 Review team meetings shall be open to the RPF, supervised designee, the
14 landowner, and the timber owner and, insofar as possible without disrupting
15 the work of the team, to the public. The chairperson may impose limitations
16 on the scope of any public participation at the meetings. All interested
17 persons will normally be allowed to attend team meetings. On occasions when
18 space or other considerations will require some limitation on attendance the
19 review team chairperson shall endeavor to allow for attendance of at least
20 one representative for each of the various agencies, organizations or special
21 interest groups.

22 (e) Non-Concurrence. If a member of the review team does not concur
23 with the chairperson's recommendation to the Director, the member shall
24 submit in writing, within five days of the review team meeting and before the
25 action required by 14 ~~CAC~~ CCR 1037.4, the specific reasons why the
recommendation does not provide adequate protection of the resources for
which his or her agency has responsibility. The submission to the Director
shall also include recommendations on measures or actions the Director should
take to address the asserted deficiency, as provided by the rules of the
Board. A non-concurring member's comments shall be considered based on the
comments' specificity and relation to the member agency's area(s) of
expertise and statutory mandate, as well as the level of documentation,
explanation or other support provided with the comments. If a non-
concurrence is filed on a plan, the review team chairperson shall prepare a
written report explaining how the concerns cited in the non-concurrence have

1 been addressed in the plan and how the natural resources of concern will be
2 protected during timber operations.

3
4 (f) Mitigation. During the review of a plan, including the pre-harvest
5 inspection, members of the review team may recommend incorporation of
6 mitigating measures into the plan which are consistent with the forest
7 practice rules and which would improve the plan or assist in significantly
8 lessening adverse impacts of the operation on any timberland resources. The
9 submitter may or may not agree with concerns expressed by the suggestions or
10 may offer alternatives. If the submitter, after consultation with the RPF
11 who prepared the plan, agrees with the suggested mitigation measures or
12 changes, they are to be incorporated in the plan. The Director may only
13 require incorporation into the plan of mitigation measures that are based on
14 rules of the Board.

15 The team may suggest protective measures to the RPF for his
16 incorporation into the plan when authority for such measures is not contained
17 in the rules and regulations of the Board. If the RPF rejects incorporation
18 of such measures into the plan, the Director shall determine if approval of
19 the plan without the suggested measures could result in immediate
20 significant, and long-term harm to the natural resources of the state. If
21 the Director finds that the state's resources are so endangered, the
22 provisions of PRC 4555 shall be followed.

23 (g) Review of Plans by Review Teams. Before the Director makes a
24 determination on a plan, a review team shall review the plan. The review
25 team shall do the following:

(1) Before the Director accepts a plan for filing or before the fifth
working day after filing, a review team shall review the plan. The purpose of
this review is to assist this Department in determining whether a preharvest
inspection (initial inspection) is necessary and what areas of concern are to
be examined during the inspection, if it is to be made. If a preharvest
inspection is determined by the Department to be unnecessary, the review team
shall make its recommendation to the Director no later than five working days
after a plan is filed.

(2) After the preharvest inspection and before the Director's
determination on a plan, the review team shall meet to review all the
information on the plan and develop a recommendation for the Director.

(3) Requests, if any, for additional information, from the plan
submitter during the review period shall be as prescribed by Section 1034 and
other conditions in the rules. Such requests shall be supported by reasons
for the request.

During the review period, the Director shall be responsible for
determining whether requests for information not contained in the plan as
filed or developed in preharvest inspection by review team members, reviewing
agencies and members of the public, are consistent with the Forest Practice
Rules, are reasonably necessary and should be requested from plan submitters.
The Director's determination of additional information to be provided by plan
submitters shall be guided by standards of practicality and reasonableness,

recognizing the statutory review period of the FPA, the requirements of 14 CCR 1034 and the availability of information from alternative sources.

(h) Review Team Recommendations. The review team chairperson shall develop on each plan reviewed, a recommendation for the Director's consideration. When developing recommendations the review team chairperson shall carefully consider all the information available and the views and opinions expressed by all team members. The advice of review team members shall be utilized in determining whether appropriate alternatives have been selected and included in a plan and if implementation of the plan would cause significant damage to natural resources. The Director shall evaluate the review team recommendation in light of their specificity, as well as the level of documentation, explanation of other support provided with the recommendation and the agency's statutory mandates and areas of expertise.

(i) Communications with Plan Submitter. The plan submitter, and the registered professional forester who prepared the plan, and review team members, shall be provided by the Department with copies of preharvest inspection reports, nonconcurrences and review team recommendations so they are kept informed and are better able to respond promptly to the Department relative to changes that may be needed in a plan before it is acted upon by the Director.

Note: Authority cited: Sections 4551 and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4582.6, 21000(g), 21002 and 21080.5, Public Resources Code; and *Natural Resources Defense Council, Inc. v. Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172.

Amend § 1090.17 Agency and Public Review for the NTMP

(a) Upon receipt of the filed plan in accordance with 14 CCR 1090.16, the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the Department of Fish and Game, the Department of Conservation, Division of Mines and Geology, and to the appropriate California Regional Water Quality Control Board, the Department of Parks and Recreation, the county planning agency and, if the areas are within their jurisdiction, to the California Tahoe Regional Planning Agency and the appropriate regional California ~~eCoastal zone conservation~~ eCommission and all other agencies having jurisdiction by law over natural resources affected by the plan.

1 (b) The Director shall also transmit a copy of any specific plan to any
2 person who has made a written request therefore.

3 (c) The Department shall bill such persons for the cost of providing
4 such copies and such monies shall be paid to the Department.

5 The Director shall invite written comments, and will consider these
6 comments. All comments regarding plans shall be in writing and shall be
7 addressed to the Director at the regional office where the plan is filed.

8
9 Note: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and
10 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7,
Public Resources Code.

11
12 **Amend § 1092.16 PTHP Review Inspection-Filing Return**

13 Within ten (10) days of the receipt of a PTHP, the Director shall
14 determine if the PTHP is accurate, complete and in proper order, and if so,
15 the PTHP shall be filed. During this same period, the Director shall
16 determine if a preharvest inspection is necessary. If a preharvest
17 inspection is needed, the ~~a~~Department will notify the submitter, the
18 Department of Fish and Game, the Department of Conservation, Division of
19 Mines and Geology, and the appropriate California Regional Water Quality
20 Control Board to determine if they want to attend and schedule a mutually
21 agreeable time and date of the inspection ~~consistent with PRC 4582.7~~. When
22 the Director finds a PTHP inaccurate, incomplete, or otherwise not in proper
23 order, the PTHP shall be returned to the submitter with written
24 specifications of the deficiencies.

1 Note: Authority cited: Sections 4551, 4551.5, 4552, ~~4582.7~~ and 21080.5,
2 Public Resources Code; and *NRDC v. Arcata National Corp.* (1976), 50 Cal. App.
3 3d. 959. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081
4 and 21092, Public Resources Code.

5
6 **Amend § 1092.18 Agency and Public Review for the PTHP**

7 (a) Upon filing a PTHP in accordance with 14 CCR 1092.16 the Director
8 shall place it, or a true copy thereof, in a file available for public
9 inspection, and shall transmit a copy to ~~DFG~~ the Department of Fish and Game,
10 ~~to~~ the appropriate California Regional Water Quality Control Board, the
11 Department of Conservation, Division of Mines and Geology, the Department of
12 Parks and Recreation, the county planning agency and, if the areas are within
13 their jurisdiction, to the California Tahoe Regional Planning Agency and the
14 ~~appropriate Regional California Coastal Zone Conservation~~ Commission.

15 (b) The Director shall also transmit a copy of any specific PTHP to any
16 person who has made a written request.

17 (c) The Department shall bill such persons for the cost of providing
18 such copies and such monies shall be paid to the Department.

19 The Director shall invite written comments, and will consider these
20 comments. All comments should address any areas where there is a question of
21 consistency with the PTEIR, the Act, the applicable rules of the Board and
22 any other applicable legal requirements. All comments shall be in writing
23 and shall be addressed to the Director at the regional office where the PTHP
24 was filed.

1 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
2 Reference: Sections 4582.7 and 4582.75, Public Resources Code.

3 **Amend § 1092.27 Report Minor Deviations**

4 (a) Minor deviations as described in 14 CCR 895.1 shall be submitted in
5 writing to the Director before undertaking the deviation. Actions described
6 in 14 CCR 1092.26 which are normally presumed to be substantial deviations
7 may, in a given instance, be minor deviations. Actions listed as substantial
8 deviations in 14 CCR 1092.26 or discussed in the PTEIR that are considered to
9 be minor by the submitter may be undertaken only if requested in writing to
10 and approved by the Director.

11 (b) The Director shall have five working days to determine if the
12 proposed deviation is substantial or minor. Upon the date of receipt, the
13 Director shall send copies of the proposed deviation to the Department of
14 Fish and Game, the appropriate California Regional Water Quality Control
15 Board, the Department of Conservation, Division of Mines and Geology, and any
16 County which has special rules adopted under Section 4516.5 of the Public
17 Resources Code.

18 (c) Where the Director fails to act within the five day period or a
19 determination is made that the proposed deviation is minor, work may
20 commence.

21 (d) Where the Director determines the proposed deviation is
22 substantial, the review process in 14 CCR 1092.18 will be followed.

23 Note: Authority cited: Section 4591.1, Public Resources Code. Reference:
24 Sections 4583.2 and 4591.1, Public Resources Code.

25 doh: 05/18/2000
File: Final Rule Language (revised)